

ASSEMBLY BILL

No. 557

Introduced by Assembly Member Karnette

February 16, 2005

An act to amend Section 872 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 557, as introduced, Karnette. Criminal procedure: testimony of retired peace officers.

Existing law, enacted by initiative measure, authorizes a finding of probable cause to be based in whole or in part upon the sworn testimony of a law enforcement officer relating the statements of declarants made out of court offered for the truth of the matter asserted. Existing law provides for amendment of these provisions by a 2/3 vote of each house of the Legislature.

This bill would extend that authorization to include testimony by an honorably retired law enforcement officer, as specified.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 872 of the Penal Code is amended to
2 read:

3 872. (a) If, however, it appears from the examination that a
4 public offense has been committed, and there is sufficient cause
5 to believe that the defendant is guilty, the magistrate shall make
6 or indorse on the complaint an order, signed by him or her, to the
7 following effect: "It appearing to me that the offense in the

1 within complaint mentioned (or any offense, according to the
2 fact, stating generally the nature thereof), has been committed,
3 and that there is sufficient cause to believe that the within named
4 A. B. is guilty, I order that he or she be held to answer to the
5 same.”

6 (b) Notwithstanding Section 1200 of the Evidence Code, the
7 finding of probable cause may be based in whole or in part upon
8 the sworn testimony of a law enforcement officer *or honorably*
9 *retired law enforcement officer* relating the statements of
10 declarants made out of court offered for the truth of the matter
11 asserted. *An honorably retired law enforcement officer may only*
12 *relate statements of declarants made out of court and offered for*
13 *the truth of the matter asserted that were made when the*
14 *honorably retired officer was an active law enforcement officer.*
15 Any law enforcement officer *or honorably retired law*
16 *enforcement officer* testifying as to hearsay statements shall
17 either have five years of law enforcement experience or have
18 completed a training course certified by the Commission on
19 Peace Officer Standards and Training—~~which~~ *that* includes
20 training in the investigation and reporting of cases and testifying
21 at preliminary hearings.